

Winn, Kim S (BPA) - NN-1

From: Munro, Christy (BPA) - D-1
Sent: Tuesday, February 18, 2014 2:45 PM
To: Winn, Kim S (BPA) - NN-1
Cc: Wilson, Risa L (CONTR) - NN-1
Subject: FW: Albeni Falls Kalispel Letter 11/02/11 (UNCLASSIFIED)
Attachments: [EXTERNAL] RE_ NEW FOIA_ Lake Pend Oreille_1401 (UNCLASSIFIED).pdf

Here is a consult

-----Original Message-----

From: Hynes, Richard M NWS [mailto:Richard.M.Hynes@usace.army.mil]
Sent: Tuesday, February 18, 2014 2:17 PM
To: Munro, Christy (BPA) - D-1
Subject: RE: Albeni Falls Kalispel Letter 11/02/11 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

RECEIVED BY BPA FOIA OFFICE THIS DATE: 2/18/14
DUE DATE: 3/18/14
LOG # BPA-2014-00051-C

Attached is the FOIA request. The email is the only document we have in our possession that is responsive to the request. I could transfer, but that is a lot of work for one document, and I know you guys are backlogged.

Richard

-----Original Message-----

From: Munro, Christy (BPA) - D-1 [mailto:cjmunro@bpa.gov]
Sent: Tuesday, February 18, 2014 1:52 PM
To: Hynes, Richard M NWS
Cc: Winn, Kim S (BPA) - NN-1; Wilson, Risa L (CONTR) - NN-1; Renner, Marcella P (BPA) - F-2
Subject: [EXTERNAL] FW: Albeni Falls Kalispel Letter 11/02/11 (UNCLASSIFIED)

Richard

Hello, I am BPA's FOIA Officer. Can you please share the incoming request with me so that I can review the full file? Where you asking for a consult? Or did you want to transfer?

Christy Munro
503.230.7303

-----Original Message-----

From: Hynes, Richard M NWS [mailto:Richard.M.Hynes@usace.army.mil]
Sent: Tuesday, February 18, 2014 1:03 PM
To: Renner, Marcella P (BPA) - F-2
Subject: FW: Albeni Falls Kalispel Letter 11/02/11 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Our office received a Freedom of Information Act request and the email below, including attachment, would be responsive to the request. Do you object to this email being released?

Richard Hynes
FOIA Officer
Seattle District
U.S. Army Corps of Engineers
206-764-3735

-----Original Message-----

From: Renner, Marcella P (BPA) - KEW-4 [mailto:mprenner@bpa.gov]

Sent: Wednesday, November 02, 2011 1:49 PM

To: Osterman, Deane

Cc: Decker, Anita J (BPA) - K-7; Sara McNary; Wright, Stephen J (BPA) - A-7; Hage, Bonnie J (BPA) - K-7; Stauffer, Nicki (BPA) - A-7; Cogswell, Peter (BPA) - DKR-7; Miller, Lori E (CONTR) - DKR-7; Williams, John J (BPA) - DKR-BOISE; Dexter, Nathan L (BPA) - DKT-7; Barco III, John W (BPA) - KEC-4; Shank, Bob (BPA) - DKT-SPOKANE; Brown, Cecilia K (BPA) - KEWM-4; Krueger, Paul Q (BPA) - KEWM-4; Watts, Virgil L (BPA) - KEWM-4; Key, Philip S (BPA) - LC-7; Delwiche, Gregory K (BPA) - P-6; Oliver, Stephen R (BPA) - PG-5; Alder, Michael E (BPA) - PGF-6; Harwood, Holly C (BPA) - PGB-5; Estok, Bruce A Col NWS; Cook, Stuart R NWS; Peters, Rock D NWD; Lear, Gayle N NWD
Subject: Albeni Falls Kalispel Letter 11/02/11

Hello all,

Please view the attached. Hard copies to follow. You may address questions/concerns to the attention of Lorri Bodi or Bill Maslen.

Thank you everyone, for your efforts to complete this letter.
Marcella Renner for Lori Bodi and Bill Maslen

Thank you,
Marcella P. Renner
Bonneville Power Administration | D.O.E.
Environment, Fish and Wildlife ~KEW-4
W. 503-230-4981 F. 503-230-4563

Classification: UNCLASSIFIED
Caveats: NONE

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Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

From: Ralph Sletager
To: Hynes, Richard M NWS
Subject: [EXTERNAL] RE: NEW FOIA: Lake Pend Oreille/1401 (UNCLASSIFIED)
Date: Monday, December 30, 2013 12:12:34 PM

Hi Richard, I am willing to pay reasonable fees and costs associated with processing my request. Thanks rs

-----Original Message-----

From: Hynes, Richard M NWS [mailto:Richard.M.Hynes@usace.army.mil]
Sent: Monday, December 30, 2013 11:04 AM
To:
Subject: EX6 NEW FOIA: Lake Pend Oreille/1401 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Freedom of Information requests should all go through me. If you email me back and state your willingness to pay reasonable fees and costs associated with processing your request, I will consider your request below to be a valid request and start processing it.

Richard Hynes
FOIA Officer
Seattle District
U.S. Army Corps of Engineers
206-764-3735

-----Original Message-----

From: Ralph Sletager
Sent: Monday, December 30, 2013 10:36 AM
To: Wickstrom, Leah J NWS
Subject: [EXTERNAL] FW: Lake Pend Oreille/1401 (UNCLASSIFIED)

Hi Leah,

On May26, 2010 I sent to you my timely detailed comments regarding the COE's planned draw downs as being out of compliance with Congressional approval and funding legislation. My comments among other supporting documents, included the congressional record of Dr. Raver of the BPA testifying at an August 28 1943 US Congressional hearing. Also testifying were Mr Debler of the Bureau of Reclamation and Colonel Parks of the COE.

Mr Raver represents that the development of Albeni Falls is guided by 5 basic principles.

Principle 1) He states that the people of each area should benefit as well as the people of the region. Please note that he distinguishes between the area and the region.

Principle 2) The development should take into account the rights and interests of the state and people of the area. And that the State should take THE LEADERSHIP of formulating the program.

Principle 3) He represents that the BPA's position is that the program

should be for multiple purposes.

Principle 4) He states that the most important principle is that the past uses, superior uses, those uses with the greatest benefit to the AREA must be protected.

Principle 5) In his next principle he represents that arriving at the priority of the rights is necessary for their protection. The inclusion of the Idaho rights as enumerated in Id code 67-4304 and 67-4305 as purposes and functions of the dam and recognition of Idaho's 1927 license certificate for the water rights is what was intended to protect them.

You State below that these comments were considered by those parties to this agreement.

Please consider this a formal FOIA request.

1. Please forward any documents that explain for example how BPA, the COE and the Bureau of Reclamation considered Mr. Raver's sworn testimony and how it applies to the MOA?
- 2) Please send me a copy of the request (to work together) that they made that you are responding to.
- 3) The protocol and/or Federal Statutes that govern a request by a Foreign Nation to alter operation of a State/Federal facility.
- 4) The takings analysis by the COE that is required by Executive Order 12630 for this Governmental action.

Thanks rs

-----Original Message-----

From: Wickstrom, Leah J NWS [<mailto:Leah.J.Wickstrom@usace.army.mil>]
Sent: Monday, December 23, 2013 12:33 PM
To: Ralph Sletager
Cc: Morris, Frances NWS
Subject: RE: Lake Pend Oreille/1401 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Hi Ralph,

I'd like to follow-up on our conversation last week regarding the current water quality temperature study regarding Albeni Falls Dam operations, and the Memorandum of Agreement (MOA) that was entered into between the Kalispel Tribe, the Bonneville Power Administration (BPA), the U.S. Army Corps of Engineers (Corps), and the Bureau of Reclamation in June 2012.

You inquired about whether the Kalispel Tribe requested to lower Lake Pend Oreille two feet in the summertime. They have not requested such an operation. They have requested to work together with the Corps to determine whether or not Albeni Falls Dam Operations has the ability to decrease downstream water temperatures in late summer. We are partnering with them on the Albeni Falls Dam Downstream Water Temperature study to explore this possibility, which was the subject of my briefing to the Pend Oreille Basin

Commission on 13 DEC 2013. The Corps is interested in better understanding the effects of operations of Albeni Falls Dam, to improve our understanding of the different considerations involved in making operational decisions at Albeni Falls Dam. It is important to note that while the Corps is assessing this information, the Corps is not currently proposing to alter the Albeni Falls Dam's operations before labor day.

As far as the origins of the Kalispel MOA, I'm uncertain if there was a formal request to enter into negotiations on the MOA from the Kalispel Tribe as that was before my time with the Corps.

Additional information about the MOA can be accessed at the following site:

http://efw.bpa.gov/environmental_services/Document_Library/Kalispel_MOA/

The MOA was subject to a 30 day public comment period in 2011, and this site contains all comments provided during this review.

I think this website will answer a lot of your questions. The Corps did not have to write a decision document since we did not commit funding to a particular project when we signed the MOA; we committed to coordinating with the Tribe. If further analysis is required for the Corps to implement an aspect of the MOA, the Corps will conduct it at the project level, as is occurring on my AFD Water Temperature study.

Under the Kalispel MOA, as well as other similar agreements known as the "Columbia Basin fish accords" that have been entered with other tribes and states in the Northwest regarding the Federal Columbia River Power System, the federal agencies agreed to work together with the tribe to achieve specific goals for the next ten years. For more information about the fish accords, please access the following site:

<https://www.salmonrecovery.gov/Partners/FishAccords.aspx>

As you indicated during our conversation, one of the other fish accord partners is the State of Idaho, and input was submitted by the Idaho Department of Fish and Game and others in response to the draft Kalispel MOA comment period. These comments were considered by the BPA, Corps, Reclamation, and the Kalispel tribe before a final agreement was reached.

The federal government has a special relationship with Kalispel Tribe as a federally recognized tribe, and owes certain obligations to the tribe as part of this status. All federal agencies are obligated to promote the welfare of federally recognized Tribes under a Trust responsibility, a doctrine developed through the history of the U.S. through Treaty, statute, regulation and policy. Through consultation and collaboration, we partner with Tribes, seeking their expertise based on their intimate knowledge of the land and water resources. Collaboration and cooperation result in better projects and allow us to achieve improved success in our mission.

Thanks so much,

Leah

-----Original Message-----

From: Ralph Sletager [<mailto:ralph@sandpointwaterfront.com>]

Sent: Monday, December 23, 2013 7:36 AM

To: Wickstrom, Leah J NWS

Subject: [EXTERNAL] FW: Lake Pend Oreille/1401

Hi Leah,

In our conversation you mentioned that the Tribe was treated as a Foreign Nation in negotiations. I believe you stated that they brought the issue to you about lowering Lake Pend Oreille two feet in the summer.

1. Please send me a copy of the request that they made that you are acting on.
2. The protocol and/or Federal Statutes that govern a request by a Foreign Nation to alter operation of a State/Federal facility.
3. The takings analysis by the COE that is required by Executive Order 12630 for this Governmental action.

Thanks rs

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